



DEPARTMENT OF VETERANS AFFAIRS  
Washington DC 20420

May 24, 2019

In Reply Refer To: 001B  
**FOIA Request: 18-07982-F**

Mr. Jasper Craven  
MuckRock News  
DEPT MR 54616  
411A Highland Ave  
Somerville, MA 02144  
[54616-99580195@requests.muckrock.com](mailto:54616-99580195@requests.muckrock.com)

Dear Mr. Craven:

This is the Final Initial Agency Decision (IAD) to your Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA) dated May 21, 2018, and referred to our FOIA office on May 22, 2018. You requested: "all communications between Robert Wilkie and the following current and former officials: Darin Selnick, Peter O'Rourke, Jake Leinenkugel, Curt Cashour, Casin Spero, David Shulkin, Jared Kushner. Please provide all communications between March 28, 2018 and present day. Search terms should include, but are not limited to: VA, mission, choice, CVA, congress, and privatization."

On June 6, 2018, you clarified your search terms to: Choice Act, Mission Act, CVA, privatize, Cohen, Trump, and White House. The Office of the Secretary, U.S. Department of Veterans Affairs (OSVA) is processing your FOIA request under tracking number **18-07982-F**.

On July 10, 2018, a total of three (3) pages were partially released in response to the portion of your request pertaining to communications with Darin Selnick and Peter O'Rourke

For this Final IAD, we searched through former Acting Secretary Robert Wilkie's emails and calendar from April 2, 2018 (the date he joined VA) to May 25, 2018 (the date he stepped down from his Acting role due to his status as Nominee). We searched for communications with Jared Kushner, David Shulkin, Jake Leinenkugel, Darin Selnick, and Peter O'Rourke. We used the key terms Choice Act, Mission Act, privatize, Cohen, Trump, and White House. During this search we located four (4) pages responsive to your request. I have determined that 4 pages are partially releasable pursuant to 5 U.S.C. §§ 552(b)(5) and (b), FOIA Exemptions 5 and 6.

5 U.S.C. § 552(b)(5) exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." The government is entitled to redact confidential government information given "the sensitivity of the commercial secrets involved, and the harm that would be inflicted upon the Government by premature disclosure." Federal Open Market Committee v. Merrill, 443 U.S. 340, 363 (1979). Redacted information includes VA electronic mail server code usernames. The release of this information would expose the VA, its employees, and its contractors to potential hacking and information technology security liabilities and risks. Releasing even a single VA username reveals the pattern to ascertain VA usernames that VA employees use to log into VA Systems of Records; releasing VA usernames exposes the VA, its

employees, and its contractors to potential hacking and information technology security liabilities and risks.

5 U.S.C. § 552(b)(6) exempts from required disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." "Withholding a telephone number or e-mail address, alone, is not sufficient to protect that [privacy] interest; alternate means of contacting and harassing these employees would be readily discoverable on the Internet if this court ordered their names disclosed." Long v. Immigration & Customs Enf't, 2017 U.S. Dist. LEXIS 160719 (D.C. Cir. 2017). Information withheld consists of names, phone or facsimile numbers, and email addresses of VA employees who are not Senior Executives and VA consultants. Disclosure could expose employees to forgery, fraud, identity theft, and harassment. The redacted information reveals nothing about how the agency performs its statutory duties.

### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

### **VA Central Office FOIA Public Liaison:**

Name: John Buck

Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

### **Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

### **FOIA Appeal**

This concludes OSVA's Final IAD to request **18-07982-F**. Please be advised that should you desire to do so, you may appeal the determination made in this response to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Mr. Jasper Craven  
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Sincerely,

Ruthann Parise  
OSVA FOIA Officer

Attachments – four (4) redacted pages